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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/321,939

Applicant(s)

CARR, WAYNE J.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 10/15/02 have been fully considered but they are not persuasive.

Applicant states numerous arguments pertaining to independent claims 1, 8, 11, and 15, but simply restate the claim limitations. No arguments were presented in relation to the claim limitations that were restated, therefore the rejections stand.

Applicant argues, in regards to claim 10, that hyperlinks of Matthews are not received over a separate delivery mechanism. Matthews clearly discloses a separate delivery mechanism for sending supplemental information (such as a web page) that can be rendered on the user interface (Column 7, Lines 64-67 and Column 8, Lines 1-5, 16-20 and elements 80, 82, 84, and 86 in Figure 3).

Applicant also argues a predetermined indication that is received at a first location at which announcements in the ancillary information streams are expected. The examiner notes that "at which announcements in the ancillary information streams are expected" is not part of the claim limitation, and therefore is not considered. Matthews teaches that the short cut label 180 in Figure 7 is received at a location at which announcements in ancillary information streams are expected (note that clicking on the icon can invoke a web page with additional information about the television that the user wishes to view at Column 12, Lines 18-27, where the web page is supplemental content that is sent from a separate delivery mechanism). Therefore,

these "announcements" are received from the second network 82, and therefore from where ancillary information streams are expected.

Applicant also argues that the short cut label 180 is created by a drag-and-drop operation. The examiner agrees with the applicant, but states that it is the data relating to the short cut label, and it's operation of having accessed to the predetermined information sent from the separate delivery mechanism that is being interpreted as the predetermined indication at the first location. The examiner also notes in Figure 7 that other links are present on the EPG that could be sent from the supplemental content server from the separate ISP host.

Applicant's final argument with regards to claim 10, is that clicking on the short cut label 180 only allows a user to tune to a specific program or channel. Clearly Matthews teaches (and stated above), that this label 180 is capable of also identifying a location of an announcement of an ancillary information stream associated with an audio/video program (Seinfeld) at Column 12, Lines 18-27. Examiner also notes the flow chart in Figure 8.

Applicant also argues, in regards to independent claim 19, that there is no transmission of announcement information with the special indicator. Again, the user created icon is based on information sent from the supplemental content server (element 80 in Figure 7). Matthews teaches that when the icon is selected, the user may access a web page sent from the supplemental server (Column 12, Lines 18-27). Therefore, a special indication is sent, the applicant is just simply equating the user

created icon to the special indication, instead of the supplemental data that the user created icon accesses.

Independent claim 21 is also still rejected for the reasons discussed above.

For the reasons stated above, the previous rejection in the Office Action dated 7/5/02 still stands.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

((e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 10, 15, 18, 19, and 21-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Matthews, III et al. (U.S. Patent No. 6,025,837).

Referring to claim 10, Matthews discloses communicating television content and enhancement data (see supplemental content servers 52 and 84 in Figure 3) including announcements (Column 3, Lines 61-63, Column 4, Lines 27-32, Figure 3, Figure 5 for an example of announcement ("More" hyperlink) data, and Column 9, Lines 60-64).

Matthews also discloses receiving the television content associated with multiple television channels over a transport medium (Column 5, Lines 44-49 and Column 6, Lines 34-35).

Matthews also discloses receiving enhancement data (Column 7, Lines 35-37) associated with the multiple television channels (Column 7, Lines 9-13) sent on a separate delivery mechanism (Column 7, Lines 64-67 and Column 8, Lines 1-5), and that announcements in the enhancement data are expected at a first location (Column 8, Lines 24-35).

Matthews also discloses receiving one or more special indications at the first location indicating that announcements are available on the separate delivery mechanism (see the Seinfeld icon in Figure 7 and Column 12, Lines 8-24), which describes accessing supplemental content when the program is not currently being broadcast), the one or more special indications identifying locations of the announcements (web pages) associated with particular television channels (Column 7, Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24).

Matthews also discloses tuning to an audio/video program (Column 8, Lines 24-31).

Matthews also discloses determining a location of an announcement based on a special indication associated with a currently tuned television channel (Column 7, Lines 22-30 and Column 8, Lines 10-20).

Referring to claim 15, see rejection of claim 10. Also note the device in Figure 4.

Referring to claim 18, Matthews teaches that the first and second devices may include different parts of a software routine (Column 1, Lines 55-61).

Referring to claim 19, see rejection of claim 10. Also see Column 7, Lines 9-31 for combining announcement information.

Referring to claim 21, see rejection of claim 10. Also see Figure 2 and Column 7, Lines 23-31 for identifying a second location (URL) where one or more announcements associated with the tuned audio/video program are based on an indicator.

Referring to claim 22, Matthews discloses receiving audio/video programs including television content associated with a plurality of television channels (Column 5, Lines 44-49 and Figure 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-17, 20, 23, 27 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 16, Matthews teaches all of the limitations in claim 15, but fails to teach the additional limitation of the enhancement data adheres to the Advanced Television Enhancement Forum Specification. The Advanced Television Enhancement Forum Specification teaches that the enhancements comprise announcements that are processed and delivered over a broadcast network (Page 2, see "Using Enhanced TV"). At the time the invention was made, it would have been obvious to a person of ordinary

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skill in the art to modify the message delivery method for an interactive entertainment system, as taught by Matthews, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the purpose of providing a single public standard for delivering interactive television experiences that can be authored once using a variety of tools (Page 2, see "Introduction").

Claim 17 corresponds to claim 16, with the additional limitation of the announcements being expected at an announcement IP address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system, as taught by Matthews, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 16.

Referring to claim 20, which correspond to claim 19, see rejection of claim 16.

Referring to claim 23, which correspond to claim 21, see rejection of claim 16.

Referring to claims 27 and 29-31, which corresponds to claims 10, 15, 19, and 21, respectively, see rejection of claim 17.



4. Claims 1, 3, and 5-6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Freeman et al. (U.S. Patent No. 6,181,334).

Referring to claim 1, Matthews discloses communicating television content and enhancement data (see supplemental content servers 52 and 84 in Figure 3) including announcements (Column 3, Lines 61-63, Column 4, Lines 27-32, Figure 3, Figure 5 for an example of announcement ("More" hyperlink) data, and Column 9, Lines 60-64).

Matthews also discloses receiving the television content associated with multiple television channels over a transport medium (Column 5, Lines 44-49 and Column 6, Lines 34-35).

Matthews also discloses receiving enhancement data (Column 7, Lines 35-37) associated with the multiple television channels (Column 7, Lines 9-13) sent on a separate delivery mechanism (Column 7, Lines 64-67 and Column 8, Lines 1-5), and that announcements in the enhancement data are expected at a first location (Column 8, Lines 24-35).

Matthews also discloses receiving one or more special indications at the first location indicating that announcements are available on the separate delivery mechanism (see the Seinfeld icon in Figure 7 and Column 12, Lines 8-24), which describes accessing supplemental content when the program is not currently being broadcast), the one or more special indications identifying locations of the announcements (web pages) associated with particular television channels (Column 7,

Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24).

Matthews also discloses determining a location of an announcement based on a special indication associated with a currently tuned television channel (Column 7, Lines 22-30 and Column 8, Lines 10-20).

Matthews also discloses processing the announcement of the currently tuned television channel (see browser 106 in user interface unit 90 of Figure 4 and Column 8, Lines 62-66).

Matthews fails to teach multiplexing the television content and the enhancement data before transmitting the data over a network. Freeman teaches multiplexing digital signals (various video and data signals) over an interactive cable television system (Column 5, Lines 49-52 and Lines 65-67 and Column 6, Lines 1-2, 8-24, 31-36, and 45-52 and Column 7, Lines 1-19, 23-27). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive entertainment system, as taught by Matthews, using the multiplexer, as taught by Freeman, for the purpose of maximizing the number of simultaneously transmittable signals (Column 5, Lines 56-58).

Claim 3 corresponds to claim 1, with the additional limitation of the one or more special indications are received on a separate delivery mechanism. Matthews teaches this limitation in Column 7, Lines 64-67 and Column 8, Lines 1-5).

Claim 5 corresponds to claim 1, with the additional limitation of receiving enhancement data over a separate communications link. Matthews teaches this

limitation in Figure 3 by showing a second network where enhanced content can also be sent from a separate ISP (also see Column 7, Lines 64-67 and Column 8, Lines 1-5).

Claim 6, corresponds to claim 1, with the additional limitation of receiving the announcements at locations different from the first location. Matthews discloses this limitation in Column 4, Lines 30-33 (distributing to multiple subscribers).

Referring to claim 11, see rejection of claim 1.

Claim 12 corresponds to claim 11, with the additional limitation of multicasting the enhancement data and predetermined indications to a plurality of receivers. The limitation is taught in Column 7, Lines 9-13.

5. Claims 2, 4, 7, 13-14, 24-25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Freeman et al. (U.S. Patent No. 6,181,334) in further view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 2, Matthews and Freeman teach all the limitations in claim 1, but fail to teach processing announcements according to the Advanced Television Enhancement Forum Specification. The Advanced Television Enhancement Forum Specification teaches that the enhancements comprise announcements that are processed and delivered over a broadcast network (Page 2, see "Using Enhanced TV"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, Advanced Television

Enhancement Forum Specification, for the purpose of providing a single public standard for delivering interactive television experiences that can be authored once using a variety of tools (Page 2, see "Introduction").

Referring to claim 4, Matthews and Freeman teach all of the limitations in claim 1, but fail to teach receiving announcements on a data-only transport stream program. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Referring to claim 7, Matthews and Freeman teach all of the limitations in claim 1, but fail to teach that receiving announcements at an Internet protocol address and port different from an expected announcement address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting

method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Referring to claim 13, Matthews and Freeman teach all of the limitations in claim 11, but fail to teach that the enhancement data adheres to an Advanced Television Enhancement Forum Specification. The Advanced Television Enhancement Forum Specification teaches that the enhancements comprise announcements that are processed and delivered over a broadcast network (Page 2, see "Using Enhanced TV"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, the Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Claim 14 corresponds to claim 13, with the additional limitation of a first location including an IP address and port at which announcements are expected to arrive. This limitation is taught and proper motivation is provided in the rejection of claim 2.

Claim 24 corresponds to claim 1, with the additional limitation of a first location containing a first network address and port, and that announcements at a second network address and port are different from the first. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability

(Page 7, see "Triggers"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Claim 25 corresponds to claim 1, with the additional limitation of receiving one or more special indications at the first location (see Figure 3 of Matthews) wherein the first location has a network address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Claim 28 corresponds to claim 11, see rejection of claim 25.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Smith et al. (U.S. Patent No. 5,559,625).

Referring to claim 8, Matthews discloses a receiver adapted to tune to an audio/video portion over a transport medium (Column 8, Lines 21-31 and Figure 4). Matthews also discloses a device adapted to receive announcement data associated with the tuned audio/video content directed to a first location (Column 8, Lines 31-35), the special announcement indicating availability of the announcement data associated with the tuned audio/video program (Column 7, Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24). Matthews teaches responding to a special announcement, but fails to teach a controller adapted to redirect the announcement data to a second location. Smith teaches re-directing traffic in a television network (Column 1, Lines 27-30) from a second location to a first location (Column 8, Lines 62-67 and Column 9, Lines 1-9). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive entertainment system, as taught by Matthews, using the method of re-directing data in a television network, as taught by Smith, for the purpose of increasing the amount of re-use of information transmission wavelengths within a network, while not incurring the disadvantage of multipath effects which can otherwise arise in wavelength re-use (Column 1, Lines 45-49), and provide a failure protection means for ensuring successful transmission of television data over a network (Column 8, Lines 62-67 and Column 9, Lines 1-5).

7. Claims 9 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Smith et al. (U.S. Patent No.

5,559,625) in further view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 9, Matthews and Smith teach all the limitations in claim 8, with the additional limitation of a second location including an address and port for receiving announcements according to an Advanced Television Enhancement Forum Specification. These additional limitations are taught in the rejection of claims 2 and 7.

***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**9.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-9048.

December 26, 2002

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800